

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

Francisco Reyes Vejerano

v.

Federal Bureau of Prisons

**CASE NUMBER:** Civil no. 97-1652 (HL)  
Crim. no. 94-016 (HL)

**MOTION**

**Date Filed:** 12.21.00 **Docket #** 41 ☒ **Plffs** ☐ **Defts** **Title:** Application for certificate of appealability

**ORDER**

Before the Court is Petitioner Francisco Reyes Vejerano's request for a certificate of appealability. In his section 2255 petition, he claimed that he received ineffective assistance from his trial attorney. In an order entered October 25, 2000, the Court denied his section 2255 petition for postconviction relief. See docket nos. 37 & 38.

A district court may issue a certificate of appealability only if the petitioner makes a "substantial showing of the denial of a constitutional right." 28 U.S.C.A. § 2253(c)(2) (West Supp. 2000). The standard of review for a certificate of appealability is the same standard as the one which was used for certificates of probable cause. *Nelson v. Walker*, 121 F.3d 828, 832 n.3 (2nd Cir. 1997); *Lennox v. Evans*, 87 F.3d 431, 433-34 (10th Cir. 1996). Thus, the petitioner need not show that he should prevail on the merits; instead, he must demonstrate that (1) the issues are debatable among reasonable jurists; (2) a court could resolve the issues in a different manner; or (3) there are questions adequate enough to deserve encouragement to proceed further. *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983); *Mahdi v. Marshall*, 976 F.Supp. 93, 94 (D.Mass. 1997).

Although the Court denied Reyes' petition, the issue regarding the performance of his trial attorney could be debatable among reasonable jurists. Moreover, the Government has not opposed his request. Accordingly, the Court grants his request for a certificate of appealability.

Date 2-15-01

**HECTOR M. LAFFITTE**  
Chief U.S. District Judge

(B)

S/C  
Appeals  
Clerk  
2/16/01

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